

Fair Political Practices Commission

Memorandum

To: Chairman Johnson, Commissioners Hodson, Huguenin, Leidigh, & Remy

From: Sukhi Brar, Commission Counsel
John W. Wallace, Assistant General Counsel
Scott Hallabrin, General Counsel

Subject: Adoption of Amendments to Regulations 18703.4, 18730, 18940.2, 18942.1, and 18943 - Biennial Gift Limit Adjustment.

Date: October 2, 2008

Proposed Commission Action and Staff Recommendation: Adopt the proposed amendments to Regulations 18703.4, 18730, 18940.2, 18942.1, and 18943.

A. Background. Government Code Sections 87103(c) and 89503(f) require the Commission to adjust the Act's gift limit biennially to reflect changes in the Consumer Price Index ("CPI").

B. Gift Limit Calculation (Regulation 18940.2). The formula used to calculate the adjusted gift limit is found at Regulation 18940.2(d)(2):

\$250 (Limit in 1990)	\times	$\frac{226.3 \text{ (average 2008 CPI)*}}{135 \text{ (CPI from 1990)}}$	=	2009 limit**
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* The California Department of Finance provides the CPI calendar year average for all California urban consumers. The California Department of Finance Planning Estimate September Forecast for 2008 indicates the California CPI for All Urban Consumers is 226.3. If this figure changes when the final number for the entire year of 2008 is released to such an extent that the limits change, we will need to update the amount.

**Rounded to nearest \$10.

Under the above formula, the gift limitation amount for January 1, 2009, through December 31, 2010, equals \$419.27, adjusted to \$420 when rounded to the nearest \$10. Therefore, the proposed amendment for Regulation 18940.2 adjusts the gift limit from \$390 to \$420 for the period beginning January 1, 2009.

C. Amendment to Regulation 18940.2(a). Gift Limit Amount. Based on the updated calculations, Regulation 18940.2(a) will be amended to read as follows:

“(a) For purposes of Government Code section 89503, the adjusted annual gift limitation amount in effect for the period January 1, ~~2007~~ 2009, to December 31, ~~2008~~ 2010, is ~~\$390~~ \$420.”

D. Other Regulations Affected. Other regulations affected by the gift limit adjustment include Regulations 18703.4, 18730, 18942.1, and 18943, which are presented below:

- **Regulation 18703.4. Economic Interest, Defined: Source of Gifts.**

“For purposes of disqualification under Government Code sections 87100 and 87103, a public official has an economic interest in any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating ~~three hundred ninety dollars (\$390)~~ four hundred twenty dollars (\$420) or more in value provided to, received by, or promised to the public official within 12 months prior to the time when the decision is made.”

- **Regulation 18730. Provisions of Conflict of Interest Codes.**

“(8.1) Section 8.1. Prohibition on Receipt of Gifts in Excess of ~~\$390~~ \$420.”

“(A) No member of a state board or commission, and no designated employee of a state or local government agency, shall accept gifts with a total value of more than ~~\$390~~ \$420 in a calendar year from any single source, if the member or employee would be required to report the receipt of income or gifts from that source on his or her statement of economic interests. This section shall not apply to any part-time member of the governing board of any public institution of higher education, unless the member is also an elected official.”

- **Regulation 18730 also needs amendment at Section 9:**

“(E) Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating ~~\$390~~ \$420 or more provided to, received by, or promised to the designated employee within 12 months prior to the time when the decision is made.”

- **Regulation 18942.1. Definition of “Informational Material.”**

“(b) Scale models, pictorial representations, maps, and other such items, provided that where the item has a fair market value in excess of ~~\$390~~ \$420, the burden shall be on the recipient to demonstrate that the item is informational material.”

- **Regulation 18943. Return, Donation, or Reimbursement of a Gift.**

“(b) Relief from Disqualification by Return, Donation, or Reimbursement. In order to relieve the recipient of an otherwise disqualifying financial interest based upon the receipt or acceptance of a gift valued at ~~\$390~~ \$420 or more pursuant to Government Code section

87100, the return, donation, or reimbursement of the gift pursuant to subdivision (a), above....”

The above noted amendments have been attached to this memorandum.

Attachments: Regulations 18703.4, 18730, 18940.2, 18942.1, 18943